THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.25173 of 2005

Date:25.11.2005

Sri Srinivasa Vidyalayam Upper Primary School

--------PETITIONER

The Government of Andhra pradesh

Rep. by its Secretary. School of Education

Department, Secretariat, Hyderabad

and others

---------RESPONDENTS

ORDER:

The petitioner is a private Educational Institution. Some of the posts are admitted into grant-in-aid, and out of such posts, two posts of Senior Grade teacher are said to be vacant. In the recent past, the Government has undertaken the process of rationalization, for the purpose of identifying the surplus posts, if any, in aided schools, and to transfer the posts together with the incumbents against the existing vacancies of aided teachers of identical category in the same District. Such a process has been the subject matter of the orders passed in various Writ petitions and Writ appeals.

The District Educational Officer, Nellore, 4th respondent herein, issued proceedings, dated 19.11.2005, stating that as many as 6 posts have been identified as surplus in the petitioner-School, and consequential orders have been passed on the same day, transferring the concerned teachers to other Schools. The petitioner challenges the said proceedings.

Sri Raj Kumar Rudra, the learned counsel for the petitioner, submits that the Government prescribed a detail procedure to be followed in the matter of rationalization, through its order in G.O.Ms.No.103, dated 05.08.2005, and that though 30th September of the previous year was to be treated as the basis for ascertaining the strength for this purpose, the respondents have not followed the same. He has also placed reliance upon G.O.Ms.No.1, dated 01.01.1994, in this regard. It was also pointed out that the head count was undertaken by the concerned authorities on a day, when there was a heavy cyclonic rain, and on the basis of the obvious poor attendance on that day, the present exercise was undertaken.

The learned Government Pleader for School Education, who has taken notice at the stage of admission, submits that the process of rationalization was undertaken strictly in accordance with the procedure prescribed under various Government Orders as well as the Judgments rendered by this Court. He contends that being a pure question of fact, it cannot be canvassed before this Court. He further urges that a right of appeal is provided for under Section
89 of the Andhra Pradesh Education Act, 1982 (for short 'the Act'), and that the petitioner can avail the same.

Through the impugned proceedings, the 4th respondent treated as many as 6 posts of SGT category of teachers in the petitioner-School as surplus and had issued the consequential orders. The process of rationalization has been taken up by respondents 1 to 3 with a semblance of vigour to ensure that the Government funds are not wasted, where the posts are not required, and fresh appointments be not made, where the vacancies exist. No exception can be taken to such an exercise. In fact a Division Bench of this Court exhorted the respondents to undertake this exercise within a stipulated time.

Respondents 1 to 3 were under obligation to ensure that the guidelines stipulated by them for this purpose are scrupulously followed. Any deviation, in this regard, would have its own impact on the functioning of the Schools. The question as to whether

the strength of students existing in the petitioner-School was ascertained, in accordance with the guidelines contained in G.O.Ms.No.103, dated 05.08.2005 and G.O.Ms.No.1, dated 01.01.1994, cannot be adjudicated by this Court. Section 89 of the Act provides for an appeal against the orders passed by the different authorities. The order passed by the District Educational Officer is appealable to the Director of School Education,

2nd respondent herein. The interests of the petitioner can be protected by directing the maintenance of *status quo* for some time.

For foregoing reasons, the Writ Petition is disposed of, leaving it open to the petitioner to prefer an appeal under Section 89 of the Act before the 2nd respondent, narrating its grievances, within a period of one week from today. *Status quo* obtaining as on today shall be maintained, for a period of three weeks. The 2nd respondent shall examine the matter and in case, the appeal is not disposed of within a period of two weeks from the date of presentation of the same, he shall pass appropriate orders to protect the interests of the petitioner, till the disposal of the appeal. There shall be no order as to costs.

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25.11.2005

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.25173 OF 2005

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Operative Portion of the Order:

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The writ petition is disposed of, leaving it open to the petitioner to prefer an appeal under Section 89 of the Andhra Pradesh Education Act, 1982, before the 2nd respondent, narrating its grievances, within a period of one week from today. Status quo obtaining as on today shall be maintained, for a period of three weeks. The 2nd respondent shall examine the matter and in case, the appeal is not disposed of within a period of two weeks from the date of presentation of the same, he shall pass appropriate orders to protect the interests of the petitioner, till the disposal of the appeal. There shall be no order as to costs.

25.11.2005

Note:

a. Issue wire at party's costs.

b. Send the bundle to the

Court Masters' Section

after dispatch of the order.

(B/o.)

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